IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1032 of 1981

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHAIKH G HABIBULLA & 1 - Appellant(s)
Versus
AHMEDABAD MUNICIPAL CORPN., & 28 - Defendant(s)

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Appearance :
NOTICE SERVED for Appellant(s) : 1 - 2.
MR PRASHANT G DESAI for Defendant(s) : 1,
None for Defendant(s) : 2, 12,22 - 27.
NOTICE NOT RECD BACK for Defendant(s) : 3 - 8,10 - 11,13 - 21, 29,
NOTICE SERVED for Defendant(s) : 9, 28,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 04/08/2006

ORAL JUDGMENT

1.Though served, nobody appears on behalf of the appellants. This being an appeal of the year 1981 and therefore, the present appeal is decided ex-parte on merits.

2. By way of this appeal, the appellants – original plaintiffs (hereinafter referred to as “the plaintiffs”) have challenged the legality and validity of the judgment and decree passed by the learned City Civil Court, Ahmedabad, dated 27th February, 1981 passed in Civil Suit No. 278 of 1976.

3. The plaintiffs, who were serving as conductors in Ahmedabad Municipal Transport Service filed the aforesaid Civil Suit No. 278 of 1976 in the learned City Civil Court, Ahmedabad, against the Ahmedabad Municipal Corporation and the Transport Manager, Ahmedabad Municipal Corporation Service, for a declaration that the so-called selection list vide Office Order No. 93 dated 24th November, 1975 published by them was prepared illegally, arbitrarily without authority and advrsely affecting the seniority rights of the plaintiffs and prepared without following necessary procedure and the same wrongfully adversely affects the rights of promotion of the plaintiffs and the same

was in violation of the provisions of the B.P.M.C. Act; 1949 and Rules framed thereunder. They also further prayed for a declaration that the appointment in the post of controllers made by the defendants pursuant to the said so-called list were illegal, null and void and not effective. The plaintiffs also prayed for necessary injunction restraining the said defendants from enforcing in any manner the said so-called selection list.

4. The suit was resisted by the defendants and it was submitted that in view of the fact that the dispute is to be raised before the Industrial Forum under the provisions of the Industrial Disputes Act, the Civil Court would not have jurisdiction. The learned trial Court framed the issues accordingly and after considering the evidence on record, held that the Civil Court has no jurisdiction to grant the relief, which is prayed for, in the suit and accordingly, dismissed the suit.

5. The controversy in question is now reserved by the

Hon'ble Supreme Court in case of ***Rajasthan SRTC & Ors. V/s. Khadarmal*** reported in **2006 SCC (L & S) P-56** as well as in case of ***Rajasthan SRTC & Another V/s. Ugma Ram Choudhry*** reported in **2006 SCC (L & S) P-58** wherein, the Hon'ble Supreme Court, relying upon the earlier decision in case of ***Rajasthan SRTC V/s. Krishna Kant*** reported in **(1995) 5 SCC P-75** has held that the Civil Court would not have the jurisdiction as the dispute was required to be raised under the Industrial Disputes Act. In view of the decision of the Hon'ble Supreme Court, it cannot be said that the learned trial Court has committed any error in dismissing the suit and in holding that the Civil Court would not have the jurisdiction.

6. Under the circumstances, there is no substance in the present First Appeal and the same is required to be dissmissed and is, accordingly, dismissed. However, there shall be no order as to costs. Ad-interim relief, if any, stands vacated forthwith.

[M.R.SHAH, J.]

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